

## 7A Am. Jur. 2d Automobiles § 11

American Jurisprudence, Second Edition | May 2021 Update

### Automobiles and Highway Traffic

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#### I. In General

##### B. Rights to Use Highways

## § 11. Motor vehicles, generally

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### West's Key Number Digest

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[What Constitutes “Use” or “Operation” Within Statute Making Owner of Motor Vehicle Liable for Negligence in its Use or Operation, 103 A.L.R.5th 339](#)

The operation of a motor vehicle upon the public highways is not a fundamental right, but only a privilege.<sup>1</sup>

### Observation:

Because the right to operate a motor vehicle is not a fundamental one, the state must show only a legitimate interest, rather than a compelling interest, to restrict or regulate the right.<sup>2</sup>

The right to use the public highways for travel by motor vehicles is one which properly can be regulated by the legislature in the valid exercise of the police power of the state.<sup>3</sup>

Owners and operators of motor vehicles have the right to use the public highways on an equal footing with the owners and operators of other vehicles.<sup>4</sup>

A farm tractor may be used on a highway if it is used solely for agricultural, farming, or manufacturing purposes.<sup>5</sup>

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Footnotes

1 Satterlee v. State, 289 Ark. 450, 711 S.W.2d 827 (1986); People v. Peterson, 734 P.2d 118 (Colo. 1987); State v. Folda, 267 Mont. 523, 885 P.2d 426 (1994); City of Spokane v. Port, 43 Wash. App. 273, 716 P.2d 945 (Div. 3 1986); Brandmiller v. Arreola, 189 Wis. 2d 215, 525 N.W.2d 353 (Ct. App. 1994), decision aff'd, 199 Wis. 2d 528, 544 N.W.2d 894 (1996).

Driving a motor vehicle is not a fundamental right; however, a driver may still bring a claim of lack of due process for the temporary taking of her driving privileges. *Indiana Bureau of Motor Vehicles v. Gurtner*, 27 N.E.3d 306 (Ind. Ct. App. 2015).

2 People v. Peterson, 734 P.2d 118 (Colo. 1987); *Heying v. State*, 515 N.E.2d 1125 (Ind. Ct. App. 1987).

3 State v. Garvin, 945 A.2d 821 (R.I. 2008).

4 *Slusher v. Safety Coach Transit Co.*, 229 Ky. 731, 17 S.W.2d 1012, 66 A.L.R. 1378 (1929); *City of St. Paul v. Twin City Motor Bus Co.*, 187 Minn. 212, 245 N.W. 33 (1932).

5 *Ryan v. Pennsylvania Life Ins. Co.*, 123 S.W.3d 142 (Ky. 2003), as modified, (Jan. 28, 2004).

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